

Exhibit G

Sara Jayne Kennedy vs HPS 50th Avenue Associates, LLC, et al.
HONORABLE JOHN W. THORTON, JR. on 12/19/2017

1 IN THE CIRCUIT COURT
2 OF THE ELEVENTH JUDICIAL CIRCUIT
3 IN AND FOR MIAMI-DADE COUNTY, FLORIDA

4 CASE NO. 2015-6405 CA 40
5 2014-2090 CA 40
6 2014-5447 CA 40

7 SARA JAYNE KENNEDY,
8 Plaintiff,

9 -vs-

10 HPS 50TH AVENUE ASSOCIATES, LLC.,
11 HPS BORDEN AVENUE ASSOCIATES, LLC.,
12 THE RELATED COMPANIES, INC.,
13 and BRUCE BEAL, et al.,
14 Defendant.

15 GLASSWALL, LLC,
16 Cross-Plaintiff,

17 -vs-

18 HPS 50TH AVENUE ASSOCIATES, LLC.,
19 HPS BORDEN AVENUE ASSOCIATES, LLC.,
20 THE RELATED COMPANIES, INC.,
21 and BRUCE BEAL, et al.,
22 Cross-Defendants.

23 * * * * *

17 TRANSCRIPT OF PROCEEDINGS

18 BEFORE: JOHN W. THORTON, JR.

19 DATE TAKEN: December 19, 2017

20 TIME: 9:50 a.m. - 10:18 a.m.

21 PLACE: Dade County Courthouse
22 73 West Flagler Street
23 Miami, Florida 33130

24 REPORTED BY: DANIA ALEN, FPR
25 AND NOTARY PUBLIC

26 * * * * *

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<p>1 APPEARANCES :</p> <p>2 GIOVANNA ABREU-O'CONNOR, ESQUIRE Marko Magolnick, Attorney at Law 3 3001 S.W. 3rd Avenue Miami, Florida 33129 4 abreu@mnn-pa.com APPEARING ON BEHALF OF COLOMBO AND KENNEDY</p> <p>5 JESSE DEAN-KLUGER, ESQUIRE 6 Jesse Dean-Kluger, P.A. 1550 Biscayne Boulevard 7 Miami, Florida 33132 jdk@jdkpa.com 8 APPEARING ON BEHALF OF DEFENDANT/CROSS-PLAINTIFF GLASSWALL</p> <p>9 ALVIN LODISH, ESQUIRE 10 and RICHARD D. SHANE, ESQUIRE Duane Morris, LLP 11 200 S. Biscayne Boulevard Suite 3400 12 Miami, Florida 33131-2318 rdshane@duanemorris.com 13 alodish@duanemorris.com APPEARING ON BEHALF OF DEFENDANTS</p> <p>14 JAMES P. CINQUE, ESQUIRE Law Offices Cinque & Cinque, P.C. 15 845 Third Avenue New York, N.Y. 10022 cinque845@aol.com 17 APPEARING ON BEHALF OF GLASSWALL 18 JEFFREY GILBERT, ESQUIRE Cozen O'Connor 19 200 S. Biscayne Boulevard Suite 3000 20 Miami, Florida 33131-2305 jgilbert@cozen.com 21 APPEARING ON BEHALF OF WESTCHESTER INSURANCE COMPANY</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 2</p> <p>1 Gilbert from Cozen O'Connor on behalf of Westchester 2 Fire Insurance Company.</p> <p>3 THE COURT: Okay. So what's the story?</p> <p>4 MR. DEAN-KLUGER: Okay. Your Honor, so we're 5 here on what was noticed as a request for a special 6 set arising out of the Court's instructions from the 7 October 17th hearing where the parties were ordered 8 to submit memorandum and then subsequently request a 9 special set. There was an order in that time period 10 that Your Honor issued denying a motion to lift stay. 11 There was no formal motion to lift the stay, and I'd 12 like to take this opportunity here today to sort of 13 flesh out --</p> <p>14 THE COURT: I thought this was a status 15 conference.</p> <p>16 MR. DEAN-KLUGER: Well --</p> <p>17 THE COURT: Okay.</p> <p>18 MR. DEAN-KLUGER: I'd love to have a status 19 conference. Great. And that's exactly -- I would 20 love to treat it like one, Your Honor.</p> <p>21 THE COURT: I didn't see any motions. That's 22 why I was wondering what you're -- where you're 23 headed.</p> <p>24 MR. DEAN-KLUGER: Only to flesh out what's going 25 on in New York versus these cases here. As a</p> <p>Page 4</p> <p>1 beginning point, all of the cases pending before Your 2 Honor were filed well in advance of the federal court 3 action in New York. They predate, all three of them, 4 predate that action.</p> <p>5 THE COURT: Okay.</p> <p>6 MR. DEAN-KLUGER: And I'll let Mr. Cinque in a 7 moment flesh out the claims pending up there versus 8 what's pending down here. There are several party 9 defendants here that are not parties to that action. 10 There are several claims that cannot be brought there 11 that were lodged here first. 12 Also, since the last hearing on October 7th --</p> <p>13 THE COURT: Sounds like you're arguing for 14 something. Okay. Go ahead.</p> <p>15 MR. DEAN-KLUGER: I'm arguing for more 16 opportunity to practice in front of Your Honor on 17 this case. That's what I'm arguing for today.</p> <p>18 THE COURT: Nicely put.</p> <p>19 MR. DEAN-KLUGER: Thank you, Your Honor. And 20 since the -- and since --</p> <p>21 THE COURT: Is that your mom or your dad who 22 taught you to do that? I mean, I happen to know both 23 of them, and I was just curious.</p> <p>24 MR. DEAN-KLUGER: It's a hybrid, definitely a 25 hybrid. I try to take the good parts from both of</p> <p>Page 5</p>
<p>1 PROCEEDINGS</p> <p>2 THE COURT: All right. 15-6405. Let me have 3 appearances, please.</p> <p>4 MR. DEAN-KLUGER: Good morning, Your Honor, 5 Jesse Dean-Kluger on behalf of 6 Defendant/Cross-Plaintiff Glasswall, LLC. Also here 7 with me today is Glasswall's counsel in the New York 8 proceedings, both the federal court and the 9 arbitration, Mr. James Cinque.</p> <p>10 MR. CINQUE: Good morning.</p> <p>11 MR. DEAN-KLUGER: He was in town on vacation 12 anyway. He thought it might be helpful for him to 13 show up. You heard his voice, and now you get him in 14 person.</p> <p>15 MS. ABREU-O'CONNOR: Good morning, Your Honor. 16 Giovanna Abreu-O'Connor on behalf of Ugo Colombo and 17 Sara Jayne Kennedy.</p> <p>18 THE COURT: All right. Great. Good morning.</p> <p>19 MR. LODISH: Good morning, Your Honor, Alvin 20 Lodish and Richard Shane on behalf of Monadnock 21 Construction; HPS 50th Avenue Associates, LLC; HPS 22 Borden Avenue Associates, LLC; The Related Companies, 23 Inc.; and Bruce Beal.</p> <p>24 THE COURT: All right. Good morning.</p> <p>25 MR. GILBERT: Good morning, Judge. Jeffrey</p>	<p>Page 3</p> <p>1 beginning point, all of the cases pending before Your 2 Honor were filed well in advance of the federal court 3 action in New York. They predate, all three of them, 4 predate that action.</p> <p>5 THE COURT: Okay.</p> <p>6 MR. DEAN-KLUGER: And I'll let Mr. Cinque in a 7 moment flesh out the claims pending up there versus 8 what's pending down here. There are several party 9 defendants here that are not parties to that action. 10 There are several claims that cannot be brought there 11 that were lodged here first. 12 Also, since the last hearing on October 7th --</p> <p>13 THE COURT: Sounds like you're arguing for 14 something. Okay. Go ahead.</p> <p>15 MR. DEAN-KLUGER: I'm arguing for more 16 opportunity to practice in front of Your Honor on 17 this case. That's what I'm arguing for today.</p> <p>18 THE COURT: Nicely put.</p> <p>19 MR. DEAN-KLUGER: Thank you, Your Honor. And 20 since the -- and since --</p> <p>21 THE COURT: Is that your mom or your dad who 22 taught you to do that? I mean, I happen to know both 23 of them, and I was just curious.</p> <p>24 MR. DEAN-KLUGER: It's a hybrid, definitely a 25 hybrid. I try to take the good parts from both of</p>

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<p>1 them.</p> <p>2 THE COURT: Okay.</p> <p>3 MR. DEAN-KLUGER: And I guess I'm going to refer 4 to the transcript from the last hearing where Your 5 Honor indicated that, you know, once the arbitration 6 award was confirmed that you were inclined to open 7 this back up, allow discovery. They would probably 8 re-file these motions to dismiss on personal 9 jurisdiction, and we'd take that discovery. The 10 arbitration award has been confirmed. That is 11 completely over.</p> <p>12 THE COURT: Everything?</p> <p>13 MR. DEAN-KLUGER: The arbitration award has been 14 confirmed. We submitted it to Your Honor. It's been 15 confirmed.</p> <p>16 THE COURT: How many arbitrations are there?</p> <p>17 MR. DEAN-KLUGER: One. It's over.</p> <p>18 THE COURT: There is only one?</p> <p>19 MR. DEAN-KLUGER: No. There is a pending 20 federal --</p> <p>21 THE COURT: Are you in agreement with that 22 Mr. Lodish?</p> <p>23 MR. LODISH: That there was one arbitration, 24 yes, there was one arbitration.</p> <p>25 THE COURT: Okay.</p>	<p>Page 6</p> <p>1 THE COURT: Some.</p> <p>2 MR. CINQUE: Well, most. Glasswall in Florida 3 sued Beal and Related who were not parties in New 4 York. Glasswall sued the New York/Florida for 5 interference with the contract that was the subject 6 of the arbitration award. And in the arbitration 7 award, the arbitrators found that, in fact, Monadnock 8 had breached the agreement by refusing to accept 9 delivery of windows as they were being manufactured.</p> <p>10 So we have a finding now that there was a breach 11 by Monadnock. It's clear on Page 10 of the award.</p> <p>12 So in order to prove an interference claim here in 13 Florida, which Glasswall alleged here, we have to 14 prove a contract, which we -- clearly everyone admits 15 there was a contract; knowledge of the contract, I 16 think we can easily establish that the Defendants 17 here in Florida had knowledge of the contract; a 18 breach of the contract, we have the arbitrators' 19 award that, in fact, there was breach by Monadnock.</p> <p>20 All we have to prove is that the breach was procured 21 by Related and Beal, and we can only prove that here 22 in Florida, nothing to do with the fraudulent 23 conveyance claim that was brought years later. The 24 fraudulent conveyance claim was asserted just a 25 couple of months ago in New York.</p>
<p>Page 7</p> <p>1 MR. DEAN-KLUGER: The award has been confirmed 2 by stipulation and order of the court.</p> <p>3 THE COURT: Okay.</p> <p>4 MR. DEAN-KLUGER: There is a federal court 5 proceeding, but it post dates these actions, and I'm 6 going to let Mr. Cinque step up, if you'll allow him, 7 just to sort of flesh out the parties and claims to 8 demonstrate to the Court that, you know, it really is 9 necessary that the claims here are allowed to 10 proceed. They don't exist up there. They cannot be 11 brought up there; and, quite frankly, the parties 12 just are not the same.</p> <p>13 THE COURT: Okay, Mr. Cinque.</p> <p>14 MR. CINQUE: Yes, Your Honor, good morning. The 15 arbitration award has been confirmed, and Monadnock 16 sued Glasswall in the federal court in New York, A, 17 to confirm the award, which we stipulated to. The 18 Judge signed the order. B, there is a claim that 19 there was some sort of a fraudulent conveyance to 20 avoid payment of the judgment. Those are the claims 21 against Glasswall in New York, and that's it.</p> <p>22 In your stay order here about a year ago, Your 23 Honor, you said that perhaps the arbitration will 24 resolve some issues, and I will submit that it has. 25 Glasswall --</p>	<p>Page 9</p> <p>1 So, Your Honor, I submit on behalf of Glasswall 2 that the case should proceed here. They should be 3 allowed to proceed on the claim of tortious 4 interference with the contract and that the New York 5 case has absolutely nothing to do with that. The 6 parties are not even in New York; The Related and 7 Beal, they're not parties to those cases.</p> <p>8 THE COURT: Okay.</p> <p>9 MR. CINQUE: Thank you, Your Honor.</p> <p>10 MS. ABREU-O'CONNOR: Your Honor, Giovanna 11 Abreu-O'Connor on behalf of Ugo Colombo and Sara 12 Jayne Kennedy. With regard to the claims involving 13 Ms. Kennedy and Mr. Colombo, the only things pending, 14 like Mr. Cinque has said, are tortious interference 15 claims, and those can only be here in Florida.</p> <p>16 Ms. Kennedy and Mr. Colombo were not parties to the 17 arbitration, and we submit to Your Honor that now 18 they're entitled to a declaratory judgment indicating 19 that they're not liable under the guaranties for the 20 insurance because Monadnock has been determined to 21 have breached the insurance and the bonds that 22 Mr. Colombo and Ms. Kennedy were guarantors of are 23 only triggered if Monadnock was not in breach, and 24 that has been determined by the arbitration award.</p> <p>25 Similarly, Monadnock was made whole by the</p>

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1 owners of the project. So it did not sustain actual
2 damages under the terms of the bond, and because the
3 declaratory relief claims in this consolidated
4 proceeding were, in reality, resolved by the
5 arbitration, the only issues that remain are the
6 tortious interference claims. And the parties
7 against whom those claims are, Related, Beal, HPS 50,
8 and HPS Borden are not parties in the New York
9 action.

10 THE COURT: Okay, go ahead.

11 MR. LODISH: Thank you, Your Honor.

12 First of all, I'm not quite sure why we're here
13 'cause the day after they noticed this hearing for
14 status conference Your Honor entered your order --

15 THE COURT: I'm looking at it on the screen.

16 MR. LODISH: -- denying request to lift stay. I
17 could go through lots of things, Your Honor. Both
18 sides agree what is left in this case, and Your
19 Honor's order is correct, the New York litigation
20 goes on. There has been no jurisdiction found over
21 Bruce Beal. There has been no jurisdiction found
22 over The Related Companies. There's been no
23 jurisdiction found over HPS 50 or HPS Borden that are
24 all New York entities and an individual.

25 So, first of all, what's happened before, Your

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1 paid it. The fraudulent transfer issue goes to the
2 fact that Ugo Colombo sold all the assets of
3 Glasswall during the course of all this for 4 to
4 5 million dollars. So where is the money going to
5 come from to pay Monadnock for the arbitration award.

6 So the issues that Sara Jayne Kennedy and Ugo
7 Colombo have is that they're the indemnitor
8 guaranties on the surety. That's their issue here.
9 That's their claim here is whether they're going to
10 have to pay as the indemnitor guarantors us because
11 Glasswall may or may not have the money. All of that
12 is being litigated right now in New York.

13 And, in fact, Mr. Cinque I guess didn't tell you
14 that Glasswall had -- has filed a motion for
15 abstention up in New York up there saying wait, let's
16 have the Florida court hear it, not you hear it. So
17 that is pending before the federal court now.

18 Glasswall has also filed a motion --

19 THE COURT: Has that been set for argument or
20 no?

21 MR. LODISH: Well, the briefing schedule, I'm
22 just going to give you all of that. Let me
23 short-circuit that by saying that the briefing
24 schedule for all of that will end with opposition's
25 replies at the end of January. So presumably

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1 Honor, way back was virtually nothing because
2 arbitration was required under the contract. They're
3 arguing taking this -- little snippets out of the
4 arbitration award that said that they should have
5 accepted windows which was a breach of the
6 subcontract. That portion of the arbitration award
7 all went to whether Monadnock was entitled to delay
8 damages. The arbitration panel essentially found
9 because of that fact and others, you don't get delay
10 damages.

11 Did Glasswall counterclaim for breach of the
12 subcontract in arbitration? No. And will that be
13 the final answer on all of that? Absolutely, Your
14 Honor. It was absolutely a compulsory claim in the
15 arbitration. They never brought it and the Court --
16 they didn't find that they breached the subcontract
17 which would lead to any type of remedy, pointed it
18 out because you're not going to get delay damages.

19 There's no dispute that Glasswall was paid every
20 dime under their contract. They're not owed any
21 money. The only issue there today, Your Honor, my
22 client, Monadnock, was awarded approximately
23 \$1,500,000 out of the arbitration against Glasswall.
24 Westchester, the surety company, is still in the case
25 'cause they got to pay it because Glasswall hasn't

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1 sometime in February the federal court will rule on
2 perhaps Glasswall's motion to dismiss the complaint
3 up there, will rule on their abstention request, and
4 then, you know, Westchester also has their matter,
5 which is really the primary matter, 'cause they're
6 the surety. They're going after Colombo and Kennedy
7 as the indemnitor guaranties on all that, and that is
8 all that Kennedy and Colombo were trying to get out
9 of down here. They're trying to get out of their
10 guaranty.

11 All of this is being handled in New York, and
12 I'll turn it over to Mr. Gilbert because there's no
13 question New York is the only jurisdiction where the
14 surety issues and the indemnification and the
15 guaranty can be heard.

16 So, Your Honor, I believe your order denying the
17 request to lift stay was proper. It is still proper.
18 You entered it on November 30th, the day after the
19 notice of hearing, that until the litigation is done
20 up in the federal court in New York, the state court
21 is done because Glasswall withdrew their complaint in
22 the state court to confirm the arbitral award. They
23 agreed to be in federal court, and so there was a
24 stipulation as to the award itself. Everything else
25 is all over the payment to our client for the award

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<p>1 and the indemnification and the guaranty. That's 2 what it's all about, Judge, at this point.</p> <p>3 THE COURT: Okay. I'm getting a lot of shaking 4 heads on the other side from left to right and back.</p> <p>5 MR. LODISH: That's been true for three years, 6 Your Honor.</p> <p>7 THE COURT: Let me hear from them.</p> <p>8 MR. GILBERT: Judge, on behalf of Westchester we 9 support your order denying the request to lift stay, 10 obviously, for the reason that Mr. Lodish just said.</p> <p>11 There is a stipulation for the briefing schedule 12 in New York that Westchester is supposed to file its 13 motion to dismiss the amended complaint filed by 14 Glasswall and the Colombos by January 9th, 2018, and 15 then the reply papers would be due by them on 16 January 31st, dealing with the -- all the issues that 17 they're seeking to litigate down here.</p> <p>18 And I'll remind the Court, based upon the 19 indemnity agreement, there is a mandatory forum 20 selection clause, and it just states specifically 21 that indemnitors, which are the Colombos, agree that 22 all actions or proceedings directly or indirectly 23 from the -- arising directly or indirectly from this 24 agreement shall be litigated only in courts having 25 status within the state of New York and consent to</p>	<p>Page 14</p> <p>1 years trying to get that finding. So what we're 2 asking Your Honor to do is to let Glasswall say, 3 well, the procuring agent of that found breach was 4 Beal and Related, and there is nothing in New York, 5 indemnifications, bonds, nothing has to do with that 6 issue, Your Honor, and that's why at a minimum I 7 think you should permit Glasswall to pursue the claim 8 for tortious interference against Related and Beal. 9 New York, they haven't heard anything about that 10 claim in New York. It's just not there.</p> <p>11 THE COURT: All right. Talk to me about that.</p> <p>12 MR. LODISH: Your Honor, first of all, this is 13 what under, if you -- Your Honor has it, but this is 14 under the issue of responsibility for delay. This is 15 the arbitrators' award. This is what they say.</p> <p>16 "We find that Monadnock wrongfully refused to 17 accept delivery of the windows, including ancillary 18 materials needed for their installation in the fall 19 and winter of 2013, 2014 in breach of the 20 subcontract. While it is true that Glasswall was 21 struggling to meet its contractual obligations and 22 there were quality control issues, when faced with 23 those obstacles, Monadnock did not exercise its right 24 to terminate the subcontract, as it could have done, 25 for failure to meet the agreed-to delivery schedule.</p>
<p>1 all the procedural jurisdictional issues.</p> <p>2 So there is a mandatory forum selection clause 3 with respect to the indemnity agreement. That's 4 what's being litigated in New York exactly right now, 5 and we fully support the order denying the request to 6 lift stay. And I would just like to add my two 7 cents. It's my first hearing. I'm here for Raquel 8 Fernandez, but we're just here on a motion to set a 9 hearing. We're not here on the hearing.</p> <p>10 THE COURT: Right. No. I got you. You know, 11 it's okay, 'cause I want to hear about what's going 12 on.</p> <p>13 MR. CINQUE: And, Your Honor, if I may just be 14 heard. We heard a lot about indemnification. It has 15 nothing to do with Glasswall's claim for interference 16 with the contract. That's what I'm here to argue, 17 that there's no reason -- we haven't heard one thing 18 as to why that's going to proceed. Beal and Related 19 intentionally interfered with the contract Glasswall 20 had to provide windows, and as I said before -- and I 21 don't want to repeat myself -- we have a finding of 22 breach. The arbitrators said clearly Monadnock 23 breached the agreements. They used the word breached 24 the agreements by failing to accept delivery of 25 windows. So we now have that finding. We spent</p>	<p>Page 15</p> <p>1 Rather, it issued a series of notices of default, 2 notices of continuing default. All the while, 3 Glasswall continued to manufacture windows trying to 4 satisfy its contractual obligations. We do not 5 conclude that there was a nefarious reason behind 6 Monadnock's actions, such as a desire to oust 7 Glasswall to pursue use of an affiliated company, but 8 we do find that Monadnock could not, whatever the 9 reason, properly hold Glasswall in proverbial limbo 10 while it decided whether to terminate the 11 subcontracts and hire a new subcontractor or 12 extracted some damages before completion of the 13 window work by Glasswall."</p> <p>14 That was all to say, so your delayed claims, 15 we're not putting that delay on Glasswall. That was 16 your -- that's more your problem. We are awarding 17 you damages on the defects, you know, and the other 18 issues, et cetera.</p> <p>19 They didn't make a finding that the contract was 20 breached. And, in fact, to counter their argument 21 about this tortious interference because what they 22 said was, "When faced with those obstacles, Monadnock 23 did not exercise its right to terminate the 24 subcontracts." What their tortious interference is, 25 which is not a proper tortious interference, Judge,</p>

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1 and it would be a waste of this Court's time to hear
2 it, because, as Your Honor knows, you've got to be an
3 unrelated third party to a contract.
4 If we go into the arbitration award as well as
5 the facts as they've laid it out, Related Companies
6 was a directly interested party in the contract.
7 They were -- they were part of the ownership. HPS,
8 the two HPSs were part of the ownership. Bruce Beal
9 is a corporate officer of Related Companies. So this
10 whole idea that they tortuously interfered with the
11 contract with Monadnock, who was a co-investor in the
12 project, is going to fall on its face legally, Judge.
13 But the whole point is why do they want this
14 tortuous interference claim? They want it because
15 they say they're not responsible for the
16 indemnification and guaranty obligations under the
17 bond. Well, we still don't know whether, in fact,
18 they have that obligation or not because it's being
19 litigated in federal court in New York, and as he
20 indicated, Glasswall filed in a complaint in New
21 York. They're in New York as a Plaintiff as well.
22 MR. CINQUE: That's absolutely not true.
23 MR. DEAN-KLUGER: The only thing filed was in
24 state court to confirm the arbitration award. That
25 was dismissed, and they confirmed it in federal

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1 court.
2 MR. CINQUE: The only claim against Glasswall
3 now, Your Honor, is confirmation that it's been taken
4 cared of and then a fraudulent conveyance claim. And
5 what Mr. Lodish said, Your Honor, the contract at
6 issue here is between Monadnock and Glasswall.
7 That's the contract that had the arbitration clause.
8 That's what was litigated. That's what Monadnock was
9 found to have breached.
10 Glasswall's asserted claim that these parties
11 that are not parties to the contract, matters between
12 Glasswall and Monadnock, not Beal, not Related, not
13 HPS, the contract to supply windows was those
14 parties, Glasswall and Monadnock, and the claim would
15 be that Monadnock was induced to breach by Related
16 and Beal, who are not parties in New York.
17 MR. LODISH: Your Honor, let me just -- this one
18 part, here again, from the arbitration award. This
19 is in their -- in the beginning part of the award,
20 just so Your Honor understands the parties.
21 Parcel A and B had different owners. This is
22 affordable housing development. The development was
23 being constructed under affordable housing plan for
24 the City of New York. This is Page 2 of the
25 arbitration award. Parcel A and B had different

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1 owners. HPS 50th Avenue Associates for Parcel A.
2 HPS Borden Avenue Associates for Parcel B.
3 Collectively owners. The owners each had several
4 members. But an affiliate of the Related Companies
5 and Monadnock were principals of both of the owners.
6 Related served, in effect, as the managing owner in
7 connection with the development of the building.
8 So, Your Honor, this whole tortious interference
9 issue, Related was, as was Monadnock, was part of the
10 ownership of this project.
11 MR. CINQUE: Your Honor, the contract was with
12 Glasswall.
13 MR. LODISH: Excuse me. I wasn't done.
14 THE COURT: Hold on.
15 MR. LODISH: Excuse me. Down here we wait.
16 Okay.
17 THE COURT: No, no, Mr. Lodish, please. Go
18 ahead.
19 MR. LODISH: Your Honor, so the issue is, as it
20 happened before, they are throwing -- they are
21 throwing suits and claims wherever they can. They're
22 trying to see what is going to stick. Your Honor,
23 the whole issue that you focused on, which was
24 correct and this was -- the order was the second time
25 you had done it in two years was, wait a second,

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1 these are intertwined. The relief and the claims are
2 intertwined and that we have to get to a point where
3 the arbitration award, the enforcement of it, the
4 surety, the indemnification, and the guaranties are
5 decided once and for all.
6 For anything to go forward here on any of these
7 claims runs the real risk of contradicting what's
8 going on in New York, and as Mr. Gilbert pointed out
9 and I pointed out, the briefing schedule under the
10 current issues are all supposed to be done by the end
11 of January and presumably sometime shortly thereafter
12 there will be some decisions. And that would be the
13 only proper time for there even to be a consideration
14 of anything down here, Your Honor.
15 THE COURT: Okay. All right.
16 MR. CINQUE: Yes, Your Honor, just on the
17 contractual arrangements. Monadnock had an agreement
18 with the owners, a construction agreement where they
19 were to supervise the construction. Then Monadnock
20 entered into a subcontract with Glasswall to provide
21 the windows. So there's no privity between Glasswall
22 and the owners. So this conversation about who the
23 owners are is irrelevant. It's just Glasswall and
24 Monadnock.
25 THE COURT: All right. Here is what I'm going

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<p>1 to do. I'm going to leave the stay order in place 2 right now. I want this set in 90 days, and you-all 3 get a date set, and I want you to set it with Judge 4 Thomas, because my five years in the CBL is up this 5 January. Okay. So Judge Thomas and Judge Butcko, in 6 the blind filing system, Judge Thomas got it.</p> <p>7 MR. LODISH: Then it's going back to him, Your 8 Honor.</p> <p>9 THE COURT: Why?</p> <p>10 MR. LODISH: Because he had it before you had it 11 before we moved it to complex.</p> <p>12 THE COURT: Oh, is that true?</p> <p>13 MR. LODISH: He had it, yeah. That's perfect.</p> <p>14 THE COURT: Then the blind filing system may be 15 not so blind. I don't know, but I want this set in 16 90 days. I want to know what's going on in New York, 17 and then at that particular point, it's going to be 18 up for a decision as to whether we reopen the case or 19 not. In other words, I want you-all telling Judge 20 Thomas, that's the issue that's going to be set in 21 front of him, do we take this off inactive status or 22 not. Okay.</p> <p>23 MR. DEAN-KLUGER: And, Your Honor, just to be 24 clear so that we can get this written out here and 25 not have to, you know, come back or anything, say 90</p>	<p>Page 22</p> <p>1 STATE OF FLORIDA 2 COUNTY OF MIAMI-DADE 3 4 5 6 I, Dania Alen, Court Reporter, do hereby certify that I was authorized to and did stenographically report the 7 foregoing proceedings and that the transcript, pages 1 through 23 is a true and correct record of my 8 stenographic notes. 9 I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a 10 relative or employee of such attorney or counsel, nor am I financially interested in the foregoing action. 11 12 Dated this 30th day of December, 2017. 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;"> Dania Alen, FPR</p> <p>Page 23</p> <p>1 days to set a status conference in front of Judge 2 Thomas? 3 THE COURT: Well, you can set a hearing. I 4 mean, if you-all -- let's put it this way. If 5 you-all find out that the motions are granted, 6 denied, whoever, whatever happens up in -- up there 7 in New York, I'm sure he'll want to know what 8 happened in that regard. Okay. And if certain 9 things -- you know, you know what you're going to do 10 as far as whatever happens up in New York, you know, 11 Mr. Kluger. So whatever happens, you know, file it 12 in front of Judge Thomas. Tell him that I wanted it 13 revisited in 90 days after those issues were decided 14 in New York. All right. 15 MR. DEAN-KLUGER: Okay. 16 THE COURT: Okay. 17 MR. DEAN-KLUGER: Thank you, Your Honor. 18 MR. LODISH: Thank you, Your Honor. 19 MR. CINQUE: Thank you, Your Honor. 20 (Thereupon, the hearing was concluded at 10:18 21 a.m.) 22 23 24 25</p>
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